

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LBS INNOVATIONS, LLC,

Plaintiff,

v.

BEST BUY CO., INC.;
FRY’S ELECTRONICS INC.; and
CAR TOYS INC.,

Defendants.

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Civil Action No. 2:17-cv-00792

Jury Trial Demanded

**PLAINTIFF LBS INNOVATIONS, LLC’S
SECOND AMENDED COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff LBS Innovations, LLC files this Second Amended Complaint for patent infringement against Defendants Best Buy Co., Inc.; Fry’s Electronics Inc.; and Car Toys Inc. (collectively the “Defendants”) and alleges as follows:

PARTIES

1. Plaintiff LBS Innovations, LLC (“LBSI”) is a limited liability company organized and existing under the laws of the State of Texas.

2. Upon information and belief, Defendant Best Buy Co., Inc. (“Best Buy”) is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business located at 7601 Penn Avenue South, Richfield, MN 55423. Best Buy’s Registered Agent for service of process in Texas is C. T. Corp. System, 1999 Bryan St., Suite 900, Dallas, TX 75201.

3. Upon information and belief, Fry’s Electronics Inc. (“Fry’s”) is a corporation organized and existing under the laws of the State of California, with its principal place of business located at 600 East Brokaw, San Jose, CA 95112. Fry’s Registered Agent for service of

process in Texas is Phillip L. Sampson Jr., Bracewell & Giuliani, L.L.P., 711 Louisiana Street, Houston, TX 77002.

4. Upon information and belief, Car Toys Inc. (“Car Toys”) is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 400 Fairview Ave., N. Ste. 900, Seattle, WA 98109. Car Toys’ Registered Agent for service of process in Texas is C.T. Corp. System, 1999 Bryan St., Suite 900, Dallas, TX 75201.

JURISDICTION AND VENUE

5. This is an action for patent infringement arising under the patent laws of the United States of America, Title 35, United States Code.

6. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Upon information and belief, Defendant Best Buy has physical places of business located in the Eastern District of Texas. *See, e.g.*, <https://www.bestbuy.com/site/store-locator/75670> (showing Best Buy located at 422 W. Loop 281, Suite 100, Longview, TX 75605). Upon information and belief, Defendant Best Buy uses the infringing products (defined below) by, for example, installing, demonstrating, testing, making promotional use of, and/or otherwise using the infringing products from its retail stores located in the Eastern District of Texas.

8. Upon information and belief, Defendant Fry’s has physical places of business located in the Eastern District of Texas. *See, e.g.*, <https://www.frys.com/ac/storeinfo/plano-location-frys-electronics-hours-maps-directions> (showing Fry’s located at 700 E. Plano Pkwy, Plano, TX 75074). Upon information and belief, Defendant Fry’s uses the infringing products (defined below) by, for example, installing, demonstrating, testing, making promotional use of,

and/or otherwise using the infringing products from its retail stores located in the Eastern District of Texas.

9. Upon information and belief, Defendant Car Toys has physical places of business located in the Eastern District of Texas. *See, e.g.*, <https://www.cartoys.com/east-plano-tx> (showing Car Toys located at 2801 Central Expressway, Plano, TX 75075). Upon information and belief, Defendant Car Toys uses the infringing products (defined below) by, for example, installing, demonstrating, testing, making promotional use of, and/or otherwise using the infringing products from its retail stores located in the Eastern District of Texas.

10. Upon information and belief, the Defendants are subject to this Court's general and/or specific personal jurisdiction because they (a) are residents of the State of Texas; and/or (b) have designated an agent for service of process in the State of Texas; and/or (c) are engaged in continuous and systematic activities in the State of Texas; and/or (d) have committed acts of infringement in the State of Texas as alleged below. Therefore, this Court has personal jurisdiction over each of the Defendants under the Texas long-arm statute, TEX. CIV. PRAC. & REM. CODE §17.042.

11. Venue is proper in this district under 28 U.S.C. §§ 1391(c) and 1400(b). On information and belief, Defendants have regular and established places of business in this district, and/or have transacted business in this district, and/or have committed acts of patent infringement in this district.

ASSERTED PATENTS

12. On July 18, 2000, the United States Patent and Trademark Office issued United States Patent No. 6,091,956 ("the '956 Patent") entitled "Situation Information System," a true copy of which is attached as Exhibit 1.

13. Plaintiff is the owner by assignment of the '956 Patent and owns all right, title, and interest in the '956 Patent, including the right to sue for and recover all past, present, and future damages for infringement of the '956 Patent.

ACCUSED INSTRUMENTALITIES

14. Upon information and belief, JVC Kenwood USA Corporation ("Kenwood") makes, imports, uses, offers for sale, and/or sells Global Positioning System Navigation Devices that provide location interface functionality that infringe the '956 Patent ("Kenwood Accused Instrumentalities"). An exemplary list of Kenwood Accused Instrumentalities is shown in Table 1 of both Exhibits 2A and 2B.

15. Upon information and belief, Pioneer Electronics (USA) Inc. ("Pioneer") makes, imports, uses, offers for sale, and/or sells Global Positioning System Navigation Devices that provide location interface functionality that infringe the '956 Patent ("Pioneer Accused Instrumentalities"). An exemplary list of Pioneer Accused Instrumentalities is shown in Table 1 of both Exhibits 3A and 3B.

16. Pioneer Accused Instrumentalities and Kenwood Accused Instrumentalities are collectively referred to herein as "the Accused Instrumentalities." Charts showing how the Accused Instrumentalities infringe Claim 11 of the '956 Patent are attached hereto as Exhibits 2A, 2B, 3A, and 3B.

CLAIM FOR RELIEF (Infringement of the '956 Patent)

17. Plaintiff incorporates paragraphs 1 through 16 as though fully set forth herein.

18. Upon information and belief, Defendant Best Buy infringed the '956 Patent in violation of 35 U.S.C. § 271(a) by using the Kenwood Accused Instrumentalities, for example, when it installed, tested, demonstrated, made promotional use of, and/or otherwise used the

Kenwood Accused Instrumentalities. *See, e.g.*, <https://www.bestbuy.com/site/kenwood-6-2-apple-carplay-built-in-navigation-bluetooth-in-dash-cd-dvd-dm-receiver-black/4969602.p?skuId=4969602> and <https://www.bestbuy.com/site/kenwood-6-8-android-auto-apple-carplay-built-in-navigation-bluetooth-in-dash-cd-dvd-receiver-black/5999202.p?skuId=5999202> (attached as Exhibits 4 and 5).

19. Upon information and belief, Defendant Best Buy infringed the '956 Patent in violation of 35 U.S.C. § 271(a) by using the Pioneer Accused Instrumentalities, for example, when it installed, tested, demonstrated, made promotional use of, and/or otherwise used the Pioneer Accused Instrumentalities.. *See, e.g.*, <https://www.bestbuy.com/site/pioneer-6-2-apple-carplay-built-in-navigation-bluetooth-in-dash-cd-dvd-dm-receiver-black/5723518.p?skuId=5723518> and <https://www.bestbuy.com/site/pioneer-7-android-auto-apple-carplay-built-in-navigation-bluetooth-in-dash-cd-dvd-dm-receiver-black/5723519.p?skuId=5723519> (attached as Exhibits 6 and 7).

20. Upon information and belief, Defendant Fry's infringed the '956 Patent in violation of 35 U.S.C. § 271(a) by using the Kenwood Accused Instrumentalities, for example, when it installed, tested, demonstrated, made promotional use of, and/or otherwise used the Kenwood Accused Instrumentalities. *See, e.g.*, https://www.frys.com/product/9267169?site=sr:SEARCH:MAIN_RSLT_PG; and https://www.frys.com/product/9267159?site=sr:SEARCH:MAIN_RSLT_PG (attached as Exhibits 8 and 9).

21. Upon information and belief, Defendant Fry's infringed the '956 Patent in violation of 35 U.S.C. § 271(a) by using the Pioneer Accused Instrumentalities, for example, when it installed, tested, demonstrated, made promotional use of, and/or otherwise used the

Pioneer Accused Instrumentalities.. See, e.g.,
https://www.frys.com/product/9083827?site=sr:SEARCH:MAIN_RSLT_PG,
<https://www.frys.com/product/8764581>, and
https://www.frys.com/product/8764581?site=sr:SEARCH:MAIN_RSLT_PG (attached as
Exhibits 10, 11, and 12).

22. Upon information and belief, Defendant Car Toys infringed the '956 Patent in violation of 35 U.S.C. § 271(a) by using the Kenwood Accused Instrumentalities, for example, when it installed, tested, demonstrated, made promotional use of, and/or otherwise used the Kenwood Accused Instrumentalities See, e.g., <https://www.cartoys.com/dnx994s> and <https://www.cartoys.com/dnx893sb> (attached as Exhibits 13 and 14).

23. Upon information and belief, Defendant Car Toys infringed the '956 Patent in violation of 35 U.S.C. § 271(a) by using the Pioneer Accused Instrumentalities, for example, when it installed, tested, demonstrated, made promotional use of, and/or otherwise used the Pioneer Accused Instrumentalities. See, e.g., <https://www.cartoys.com/avic8201nex> and <https://www.cartoys.com/avic6201nex> (attached as Exhibits 15 and 16).

24. More particularly, without limitation, in accordance with Claim 11 of the '956 Patent, for example, each of the Accused Instrumentalities comprise a method of communicatively executing, including making apparent to the aural and tactile senses of the user, one or more transmittable mappable hypertext items representing people, organisms, and objects, including buildings, roads, vehicles, and signs, on a computer in a manner scalably representing interrelationships of said objects. See, e.g., Exhibits 2A, 2B, 3A, and 3B.

25. The method performed by the Accused Instrumentalities includes the step of searching each of one or more unique mappable information code sequences, each of which said

code sequences serving to uniquely represent one of said items and copied from the memory of said computer or received from an alternate source, for a field containing geographical coordinates, said each of said code sequences includes an item reference field, a name field, a location field including said geographical coordinates, and a data field. *See, e.g.*, Exhibits 2A, 2B, 3A, and 3B.

26. The method performed by the Accused Instrumentalities includes the step of converting said coordinates to an appropriately proportionate representation on said computer. *See, e.g.*, Exhibits 2A, 2B, 3A, and 3B.

27. The method performed by the Accused Instrumentalities includes the step of displaying selectably scalably said items on said computer whereby said user may quickly receive and display timely situation information mapped in the context of spatial information, including appropriate to a geographical or other area, in which said mappable hypertext items are quickly received, mapped, and optionally executably selected by said user to provide additional of said situation information or received, stored, and transmitted by a provider of said situation information. *See, e.g.*, Exhibits 2A, 2B, 3A, and 3B.

28. On information and belief, when Defendants used the Accused Instrumentalities by, for example, installing, testing, demonstrating, making promotional use of, and/or otherwise using the Accused Instrumentalities, the Accused Instrumentalities performed the method described and claimed in the '956 Patent. *See, e.g.*, Exhibits 2A, 2B, 3A, and 3B. Thus, Defendants directly infringe the claimed method of the '956 Patent by using the Accused Instrumentalities.

29. Because the performance of the claimed method is an essential part of the functionality of the Accused Instrumentalities, the Accused Instrumentalities do not have any substantial uses that do not infringe the '956 Patent.

30. Plaintiff has been damaged by Defendants' infringing activities.

31. Because all Defendants used the Accused Instrumentalities, Defendants' actions are part of the same transaction, occurrence, or series of transactions or occurrences and there is a logical relationship between the claims asserted against the Defendants such that there is substantial evidentiary overlap in the facts giving rise to the cause of action against Defendants.

DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff hereby demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests the following relief:

(a) A judgment in favor of Plaintiff that Defendants have directly infringed Claim 11 of the '956 Patent;

(b) A judgment that Plaintiff has been irreparably harmed by the infringing activities of Defendants, and is likely to continue to be irreparably harmed by Defendants' continued infringement;

(c) A judgment and order requiring Defendants to pay Plaintiff damages adequate to compensate for infringement under 35 U.S.C. § 284, which damages may include lost profits but in no event shall be less than a reasonable royalty for their usage made of the inventions of the '956 Patent, including pre- and post-judgment interest and costs, including expenses and disbursements;

- (d) A judgment awarding Plaintiff its costs as provided under Fed. R. Civ. P. 54(d)(1);
- (e) A judgment for pre- and post-judgment interest on all damages awarded;
- (f) A judgment awarding Plaintiff post-judgment royalties; and
- (g) Any and all such further necessary or proper relief as this Court may deem just and equitable.

Dated: March 27, 2018

Respectfully submitted,

BUETHER JOE & CARPENTER, LLC

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**ATTORNEYS FOR PLAINTIFF
LBS INNOVATIONS, LLC**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a) on this 27th day of March, 2018.

/s/ Niky (Bukovcan) Bagley _____
Niky (Bukovcan) Bagley